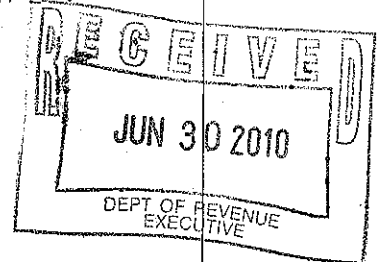


FILED
SKAGIT COUNTY CLERK
SKAGIT COUNTY, WA

2010 JUN 30 PM 2:11



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR SKAGIT COUNTY

WHATCOM COUNTY, a charter county
and political subdivision of the State of
Washington and THE CITY OF
BELLINGHAM, a municipal corporation
and political subdivision of the State of
Washington,

Plaintiffs,

v.

THE STATE OF WASHINGTON, a
sovereign state of the United States, and the
WASHINGTON STATE DEPARTMENT
OF REVENUE and CINDI L.
HOLMSTROM, DIRECTOR, in her
official capacity,

Defendants.

No. 10 2 01216 '1

MOTION AND AFFIDAVITS IN
SUPPORT OF A TEMPORARY
RESTRAINING ORDER

COMES NOW, the Plaintiffs, City of Bellingham ("City"), and Whatcom County
"County") and by and through their undersigned attorneys, and request that this Court
issue an order for a temporary restraining order enjoining the Defendants, from advising
and/or instructing retailers to allow the state and local retail sales tax exemptions as
provided by RCW 82.08.0273 to British Columbia residents or residents of other similar
situated Canadian Provinces, during the pendency of the action.

MOTION AND AFFIDAVITS IN SUPPORT OF A
TEMPORARY RESTRAINING ORDER - I

COPY

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 778-8270
Fax (360) 778-8271

1 Further, that the Court grant the Plaintiffs' request that the Department of Revenue
2 advise retailers that its advisory opinion of the tax exemption provided in RCW
3 82.08.0273, is being legally challenged by the City of Bellingham and Whatcom County,
4 and that the Department of Revenue should be restrained from issuing any further Excise
5 Tax Advisory opinions on this issue, beyond Excise Tax Advisory 3054.2009, during the
6 pendency of the action. The Department of Revenue should also be required to update its
7 web page and press releases so that retailers are notified of the legal challenge to the
8 Department of Revenue's advisory opinion of the exemption from state and local sales tax
9 for British Columbia residents or residents of other similar situated Canadian Provinces.
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11
12 **A Temporary Restraining Order Is The Appropriate Remedy.**

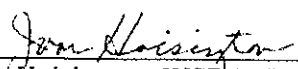
13 The change in Canadian tax collection system between British and the Canadian
14 government will occur on July 1, 2010. The Department of Revenue has already issued a
15 press release and instruction to retailers on its web site related to the granting of and
16 implementation of this sales tax exemption for British Columbia, Canada, residents (see
17 Declaration of Joan Hoisington). If a temporary restraining order is not granted, the City
18 and County stand to suffer immediate, irreparable financial harm and loss of revenue (See
19 Declaration of John Carter). A temporary restraining order will protect the City and
20 County and will not damage the Department of Revenue. There is no other adequate
21 remedy in law or equity that would protect the Plaintiffs other than a temporary
22 restraining order restraining the Department of Revenue from issuing any further excise
23 tax advisory opinions on this issue and requiring them to notify tax payers of this legal
24 challenge to further notify tax payers of the existence of the temporary restraining order if
25 this relief is granted.
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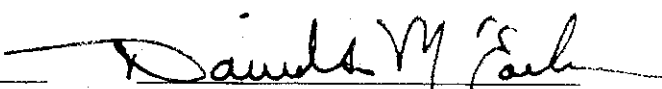
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2 This motion is based upon the City of Bellingham and Whatcom County's
3 Memorandum in Support of Motion for Temporary Restraining Order thereof, the
4 Affidavits filed herein, the Complaint for a Writ of Certiorari, Injunctive and Declaratory
5 Relief and Exhibits attached thereto and the applicable statutes and court rules.
6

7 DATED this 30th day of June, 2010.

8 CITY OF BELLINGHAM

WHATCOM COUNTY

9
10
11 
12 Joan Hoisington, WSBA #7966
Bellingham City Attorney

13 
14 David McEachran, WSBA #2496
15 Whatcom County Prosecuting Attorney
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